

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | CRIMINAL ACTION NO. |
| v. |) | 2:16cr340-MHT |
| |) | (WO) |
| ALVIN LEE McCARY |) | |

OPINION AND ORDER

On December 17, 2019, the court held a hearing on the pending petition for revocation of supervised release (doc. no. 82) against defendant Alvin Lee McCary. During the hearing, the court proposed to McCary that he participate in the modified-HOPE model in an effort to address his drug problem. See *United States v. Newman*, 350 F. Supp. 3d 1218 (M.D. Ala. 2018) (Thompson, J.). After a recess, during which McCary conferred with defense counsel, McCary voluntarily and knowingly represented to the court that he agreed to participate in the modified-HOPE model. The government and probation also agreed to this proposal. McCary, defense counsel, and the court then signed an agreement outlining the terms of

McCary's participation, including a waiver of rights, attached to this order as Attachment A.

The parties having agreed in open court on December 17, 2019, that defendant Alvin Lee McCary's conditions of supervised release should be modified to reflect this agreement contained in Attachment A, pending resolution of the revocation petition (doc. no. 82), it is ORDERED as follows:

(1) The evidentiary hearing on the revocation petition (doc. no. 82) is continued generally.

(2) All previously imposed conditions of supervised release shall remain in effect, including the regular, random drug testing.

(3) Defendant McCary's conditions of supervised release are modified to include the following additional conditions:

(a) Defendant McCary is to attend mental-health counseling at least twice per month.

(b) For each new instance in which the

probation officer receives information that defendant McCary tested positive for alcohol or an illegal substance or failed to appear for a drug test or a mental-health counseling appointment without good cause, the probation officer will file a petition for a warrant, which shall issue the following Friday. Defendant McCary shall surrender to the United States Marshals at One Church Street, Montgomery, Alabama no later than 5:00 p.m. that Friday and shall be released the following Monday upon the court's recall of the warrant. Defendant McCary's failure to report on time for service of this weekend sentence will be considered a violation of supervision and will subject him to further penalties, which may include revocation of supervised release.

(c) Defendant McCary should make transportation arrangements to ensure his successful surrender to the United States Marshals.

(d) If defendant McCary tests positive or fails to appear for a drug test or a mental-health

counseling appointment without good cause
three times, the court will hold a hearing to
review his progress and revisit the terms of
the agreement.

DONE, this the 19th day of December, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE